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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन  
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the  
24th February, 1984:—

### I

BILL NO. XXIX OF 1983

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Thirty-fifth Year of the Republic  
of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1983.
2. In article 124 of the Constitution, (i) after clause (1) the following  
clause shall be inserted, namely:—

Short  
title.

Amend-  
ment of  
article  
124.

“(1A) There shall be a Supreme Council of the Judiciary con-  
sisting of the Chief Justice of India, the Union Minister of Law,  
the senior-most of the retired Chief Justices of India, the President  
of the Bar Council of India and the senior-most of the Chief Justices  
of High Courts in India.”

- (ii) For clause (2), the following clause shall be substituted, namely:—

“(2) Every Judge of the Supreme Court, including the Chief  
Justice of India, shall be appointed by the President by warrant  
under his hand and seal on the advice of the Supreme Council of



the Judiciary and shall hold office until he attains the age of sixty-five years:—

Provided that—

(a) the senior-most Judge of the Supreme Court who has not attained the age of 62 years on the date when the post of the Chief Justice of India falls vacant, shall be appointed to that post;

(b) the office of a Judge of the Supreme Court shall be filled by selection from amongst the serving Judges of the High Courts, including the Chief Justices thereof, who have not attained the age of 60 years on the date when the vacancy in the Supreme Court arises, or from amongst the distinguished jurists;

(c) a Judge, including the Chief Justice of India, may by writing under his hand addressed to the President, resign his office;

(d) a Judge may be removed from his office in the manner provided in clause (4)".

Amend-  
ment of  
article  
217.

3. In article 217 of the Constitution,—

(i) for clause (1), the following clause shall be substituted, namely:—

"(1) save as provided in article 224, every Judge of a High Court shall be appointed by the President by warrant under his hand and seal on the advice of the Supreme Council of the Judiciary, as constituted under clause (1A) and shall hold office until he attains the age of sixty-two years:

Provided that—

(a) the Supreme Council of the Judiciary shall maintain an all-India roster of advocates who are qualified to serve as Judges of High Courts and are selected in accordance with the rules framed by the Council;

(b) half of the posts of the Judges of a High Court shall be filled by selection from this roster and the rest of the posts shall be filled by promotion from amongst the members of the Judicial Service of the State or the States within the jurisdiction of the High Court concerned in accordance with the rules framed by the Council;

(c) the senior-most Judge of a High Court who has not attained the age of fifty-nine years on the date when the office of the Chief Justice of a High Court falls vacant shall be appointed to fill that vacancy;

(d) a Judge may, by writing under his hand addressed to the President, resign his office;

(e) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124;

(f) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his resignation or removal or by his being transferred with consent by the President to any other High Court within the territory of India,



### STATEMENT OF OBJECTS AND REASONS

The present system of appointment and transfer of Judges has been found to be unsatisfactory. A general consensus has grown that the power which now resides in the Chief Justice of India to make recommendations for high judicial appointments should be vested in a collegium rather than in any individual. It is also felt that in order to bring about complete separation of the executive from the judiciary, and also to eliminate all possibilities of political interference in the process, the Government should play only a small role in the matter of judicial appointments. Thus, there is need for the constitution of a Supreme Council of Judiciary to advise the President as also to lay down some norms for the appointment of the judges of the High Courts and their Chief Justices, for the elevation of a Senior Judge from a High Court to the Supreme Court, for the appointment of the Chief Justice of India and finally for the transfer of judges from one High Court to another. This Bill seeks to achieve these objectives.

SYED SHAHABUDDIN.



### FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for a Supreme Council of the Judiciary. Though it is to consist mainly of the functionaries who will be already drawing their entitled salaries, allowances and other perquisites, some expenditure from the Consolidated Fund of India, will, however, be involved for payment of allowances to the retired Chief Justice and the President of the Bar Council of India and for meeting certain other incidental expenses. As such, the provisions of the Bill when enacted will involve a small recurring expenditure of approximately twenty thousand rupees per annum. No non-recurring expenditure will be involved.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill provides for framing of rules by the Supreme Council of the Judiciary for selection of advocates to serve as Judges.

The framing of these rules is a matter of detail and as such, the delegation of legislative power is of a normal character.



## II

## BILL NO. XXIV OF 1983

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India, as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1984.

Short  
title.

2. In Article 213 of the Constitution, in clause (2),—

Amend-  
ment  
of article  
213.

(a) in sub-clause (a),—

(i) for the words “six weeks” the words “one week” shall be substituted;

(ii) after the word “Legislature” the words “unless a Bill to replace the Ordinance is introduced in either House of the Legislature or upon the passing of that Bill or on the conclusion of that Session” shall be inserted;

(iii) the words “before the expiration of that period” shall be omitted.

(b) after sub-clause (a) the following sub-clause shall be inserted, namely:—

“(aa) may not be re-promulgated with substantively the same provisions, as are contained in the Ordinance or the Bill introduced to replace that Ordinance until that Bill has been disposed of by the Legislature”;

(c) in the *Explanation* for the words “six weeks” the words “one week” shall be substituted.



## STATEMENT OF OBJECTS AND REASONS

The misuse of the Ordinance-making power by some State Governments has led to virtual usurpation of legislative authority by the Executive. The device used is to shorten the sittings of the legislatures and to repromulgate an Ordinance just before the commencement of a Session. Such blatant misuse of this power as practised, say, in Bihar, is against the spirit of the Constitution and constitutes a fraud thereon. This power needs to be curtailed and controlled.

Hence, this Bill,

SYED SHAHABUDDIN.



## III

BILL NO. XXXII OF 1983

*A Bill to amend the Delimitation Act, 1972*

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delimitation (Amendment) Act, 1984.

Short  
title and  
extent.

(2) It extends to the whole of India.

76 of 1972.

2. In section 9 of the Delimitation Act, 1972,

Amend-  
ment of  
section 9.

(a) in sub-section (1),—

(i) in clause (a),—

(a) after the words “as far as practicable, be” the words “administratively and” shall be inserted; and

(b) after the words “administrative units” the words “upto block level” shall be inserted.

(ii) after clause (a) the following clause shall be inserted, namely:—

“(aa) every parliamentary constituency shall be so delimited as to coincide, as far as practicable, with the boundaries of one district or more than one contiguous districts provided that if such of a course is not practicable, the whole of the tehsil or sub-division shall be added to or subtracted from that district as may be necessary”;

(iii) after clause (b) the following clause shall be inserted, namely:—

“(bb) every Assembly constituency shall be so delimited as to coincide, as far as practicable, with the boundaries of one tehsil or sub-division provided that if such a course



is not practicable the whole block shall be added to or subtracted from, the tehsil or sub-division as may be necessary.”;

(iv) after clause (c) the following clause shall be inserted, namely:—

“(cc) parliamentary constituencies which have the largest population of the Scheduled Castes or the Scheduled Tribes within a State shall be reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be”;

(v) after clause (d) the following clause shall be inserted, namely:—

“(dd) assembly constituencies which have the largest population of the Scheduled Castes or the Scheduled Tribes within a State shall be reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be”.

(b) after sub-section (1) the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1), for the purposes of reservation for the Scheduled Castes or the Scheduled Tribes, as the case may be, those parliamentary or assembly constituencies shall also be considered for rotation at every successive general election whose population of the Scheduled Castes or the Scheduled Tribes, as the case may be, varies by not more than five per cent from that of the constituency with the lowest population of the Scheduled Castes and the Scheduled Tribes under clause (cc) and (dd).



## STATEMENT OF OBJECTS AND REASONS

Under the Constitution some parliamentary as well as assembly constituencies are to be reserved for the Scheduled Castes and the Scheduled Tribes. In earmarking the constituencies for the reservation, several contradictions have come to the fore. The constituencies with higher proportion of population of the Scheduled Castes and the Scheduled Tribes have remained as unreserved while those with less population or smaller proportion have been declared as reserved ones. Obviously, the purpose of the reservation should be to cover the largest possible segment of the Scheduled Castes and the Scheduled Tribes population of the State. However, at the lower end of the scale there may be several constituencies with very small variation in the proportion of the Scheduled Castes and the Scheduled Tribes population. There should be some rotation among such constituencies at the lower end of the scale.

The other aspect of the delimitation that needs attention is the extent to which a constituency coincides with the administrative boundaries. Over the years since the Delimitation Act came into force, blocks have emerged as the basic units of the administration. It may not be possible to have the parliamentary constituencies coincide wholly with the district boundaries or the assembly constituencies to coincide with the boundaries of the tehsils or the sub-divisions. But, in order to bring about better control and coordination as well as a greater sense of cohesion among the electorate of a constituency and also to avoid scope for deliberate gerrymandering as far as possible, it should be ensured that the boundaries of the parliamentary, or the assembly, constituencies coincide with the established administrative boundaries. This would mean that in case of parliamentary constituencies, districts plus or minus as the case may be, the whole tehsils or sub-divisions should be included to constitute a constituency and in case of assembly constituencies, tehsils or sub-divisions plus or minus as the case may be, the whole block should be included to constitute a constituency. The primary consideration, however, remains unchanged that by and large all the parliamentary constituencies should represent as nearly as may be equal segments of the population of the country. Similarly, the assembly constituencies should represent equal segments of the population of a State. It may be noted that the administrative boundary lines largely follow the geographical features and the facilities of transport and communications also,



over the years, tend to get, oriented to conform to those administrative divisions.

It is felt that there is a need to eliminate the element of arbitrariness in the matter of delimitation and reservation to the extent possible and to ensure that the provision of reservation benefits the largest possible cross-section of the Scheduled Castes and the Scheduled Tribes population.

Hence, this Bill.

SYED SHAHABUDDIN.

—  
SUDARSHAN AGARWAL,  
*Secretary-General.*